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September 24, 2009

**VIA ECF AND FEDERAL EXPRESS**

Honorable A. Kathleen Tomlinson  
100 Federal Plaza  
Courtroom 910  
Central Islip, New York 11722

**Re: Palm Bay International Inc. v. Marchesi di Barolo S.P.A.  
09 CV 601**

Dear Judge Tomlinson:

We submit this letter in further support of Plaintiff Palm Bay International Inc.'s ("Palm Bay") motion for a protective order precluding Defendant Marchesi di Barolo's ("Marchesi") from seeking discovery relating to confidential agency agreements entered into by David and Marc Taub (Palm Bay's principals) and wine producers other than Marchesi in the above-referenced action.

Marchesi opposes Palm Bay's motion on the ground that Marchesi has not sought this discovery from Palm Bay, only from the Taubs in their capacity as plaintiff's in the related *Taub v. Marchesi* lawsuit. However, Marchesi has misrepresented the facts to this court. Specifically, Request Nos. 17, 18 and 22 of Marchesi's First Request for Documents in this action, requests documents and information specifically relating to confidential agency agreements entered into by David and Marc Taub. (For the court's reference, Plaintiff's Response to Defendant's Document Requests is annexed hereto as Exhibit A). Notwithstanding that Palm Bay timely asserted its objection to these requests, Marchesi then sought to obtain this information from both Marc Taub and David Taub at their respective depositions. Contrary to Marchesi's representation, these depositions were noticed to be taken for both the instant lawsuit and the *Taub v. Marchesi* lawsuit, as evidenced by the Notices of Deposition annexed to Marchesi's opposition. Further, it has been Marchesi's position and expressed intention to use the information at these depositions for both lawsuits. Notably, Marchesi also sought this discovery in this case pursuant to paragraph 14 of its Rule 30 (b)(6) Notice of Deposition (For the court's reference, a copy of Marchesi's Rule 30(b)(6) Notice of Deposition for *Palm Bay v. Marchesi* action is annexed hereto as Exhibit B). Thus, Marchesi's position that it is not seeking this

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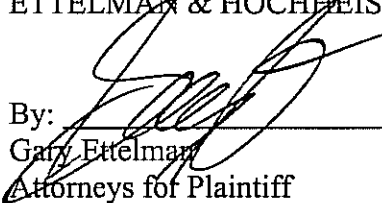
Page 2

discovery in the instant lawsuit is belied by the facts and should be disregarded by this court.

Notwithstanding the above, in its opposition, Marchesi tacitly acknowledged that this discovery is wholly unrelated to any issues before the court in this case. Accordingly, a protective order, in the instant lawsuit, precluding discovery relating to other agency agreements in both written discovery and depositions is warranted.

Respectfully Submitted,

ETTELMAN & HOCHHEISER, P.C.

By: 

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cc: Judge Arthur D. Spatt (via ECF and Federal Express)  
John Dellaportas (via ECF )  
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Christopher Petelle (via ECF)